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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/492,982	01/27/00	FARMWALD	M P043D2C3C

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EXAMINER

NGUYEN, T

ART UNIT PAPER NUMBER

2818

DATE MAILED: 05/19/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/1492,982

Applicant(s)

FARMWALD et al.

Examiner

IAN T. NGUYEN

Group Art Unit

2818

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 01/27/00
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 151-175 is/are pending in the application.
- Of the above claim(s) 1-150 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☒ The proposed drawing correction, filed on 01/27/00 is ☒ approved ☐ disapproved.
- ☐ The drawing(s) filed on 1/27/00 is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The Preliminary amendment filed by Applicants on January 27, 2000 has been received.
2. The Information Disclosure Statement submitted on March 2, 2000 has been received and fully considered.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 151-156, 159-160, 161-167, 171-175 are rejected under the judicially created doctrine of double patenting over claims 2-5, 13, 20-23, 29 of U. S. Patent No. 6,034,918 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

Claims 2-5, 13, 20-23, 29 of U.S. Patent No 6,034,918 recite first block size information and second block size information which define a first and second amount of data to be input by

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the memory device in response to a first and second write request, the first block size information and the first write request are included in a same request packet.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

5. Claims 157-158, 168-170 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-17 and 33 of U.S. Patent No. 6,034,918. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 157-158 and 168-170 of the present application claiming step of generating internal clock signal using delay locked loop and an external clock signal for an input operation, while claims 16-17 and 33 of U.S. Patent No. 6,034,918 claim step of generating an internal clock signal for an output operation.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of controlling the memory device of U.S. Patent No. 6,034,918 by generating the internal clock signal for both input and output operations.

The rationale is as follow: A person of ordinary skill in the art would have been motivated to use the same components to generate internal clock signal for both input and output operation to simplify the circuitry of the memory device.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan T. Nguyen whose telephone number is (703) 308-1298. The examiner can normally be reached on Monday to Friday from 08:00 AM to 04:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David C. Nelms, can be reached on (703) 308-4910. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Tan T. Nguyen
Primary Examiner
Art Unit 2818
May 17, 2000

T.N
05/17/2000